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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,643	05/19/2004	Ming-Kuo Cheng		3642

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ZEROPLUS TECHNOLOGY CO., LTD.
2F-4, NO. 184, SEC. 4, CHUNG HSIAO EAST ROAD
TAIPEI,
TAIWAN

EXAMINER

HSU, RYAN

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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01/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/709,643	Applicant(s) CHENG ET AL.	
	Examiner Ryan Hsu	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/709642. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are both directed towards a video game system having a sound device that incorporate a game controller that comprises a first, second, and third control circuit wherein a first communication interface and a second communication interface and buttons. The claims of the co-pending applications also are directed towards a sound device that incorporates a third control circuit that has a speaker and microphone with a regulator switch that is to allow a player to communicate with other players during the play of an online video game..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Heredia (US 6,241,612 B1).

Regarding claims 1 and 10, Heredia discloses a video game system having a sound device comprising a video game player comprising a game controller comprising a first control circuit, a first communication interface and a second communication interface and buttons (*see peripherals [340], [350], [360] of Fig. 3 and the related description thereof*). Additionally, Heredia discloses a sound device that is connected to the game controller of the video game player via the game system wherein the sound device comprises a third communication interface and a second control circuit wherein the first communication interface and the second communication interface are respectively connected to the video game player (*see Fig. 3 and the related description thereof*). Furthermore, the third communication interface of the sound device and the second control circuit are connected to a speaker, a microphone so that players can communicate with each other via the speaker and microphone for play in an online video game

(see server 'e', element [325] and [385] of Fig. 3 and the related description thereof).

Furthermore, it is inherent in the speaker arts for the circuitry to have an on/off switch to control the devices and a mechanism to control the volume of the audio devices.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-9 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heredia (US 6,241,612 B1).

Regarding claims 4-9 and 13-18, Heredia teaches a sound device of a video game system wherein the video game controller is a palm joystick, steering wheel, dancing pad, joystick (*see 365 of Fig. 3 and the related description thereof*), flight joystick, and light beam controller gun. Although Heredia does not specifically teach all of these specific embodiments these are all well known and common equivalents in the gaming arts as common types of game controllers used in a gaming system. By incorporating the sound device into a game system controller one would have been motivated to incorporate such a feature into all the various types of game controllers in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the game controller taught in Heredia to be incorporated in a palm joystick, steering wheel, dancing pad, flight joystick, or a light beam controller.

Claims 2-3 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heredia (US 6,241,612 B1) as applied to claims above, and further in view of Varma et al. (US 2004/0213419 A1).

Regarding claims 2-3 and 11-12, Heredia teaches a gaming system that allows a player to communicate using a microphone and speaker in an online computer game. However, Heredia is silent with respect to a second control circuit that comprises an auto-gain circuit and a noise canceling circuit.

In a related gaming patent, Varma et al. teaches a game system that incorporates in a game controller a sound device wherein a second control circuit comprises an auto-gain circuit for balancing an over loud volume sound or a low volume sound (*see Fig. 10 and the related description thereof*). Additionally, Varma teaches a second control circuit in the sound device that comprises a noise or echo canceling circuit for canceling an echo (*see Fig. 9-10 and the related description thereof*). One would be motivated to incorporate such a feature into a game system in order to reduce distractions while playing a video game. As taught by Varma, many other noises can be distracting to a user and changes in volume can occur which can reduce the sound quality of the speech in the game (*see paragraph [0032-0035]*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Varma and the auto-gain and noise canceling circuitry into the gaming system of Heredia.

Conclusion

Application/Control Number:
10/709,643
Art Unit: 3714

Page 6


Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E Pezzuto can be reached at (571)-272-6996.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).


RH

January 3, 2008


ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER